

Exhibit B

October 15, 2021, Letter to Representative Faison

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October 15, 2021

The Honorable Jeremy Faison
425 Rep. John Lewis Way N.
Suite 604 Cordell Hull Bldg.
Nashville, TN 37243

Dear Representative Faison:

We are law students working in Vanderbilt Law School's First Amendment Clinic, writing you on behalf of our client, Dean Fox. On or around September 6th, after commenting on the "Happy Labor Day" post on the verified Facebook page entitled "State Representative Jeremy Faison," Mr. Fox was blocked from interacting on this page. As a government official, blocking Mr. Fox from a public social media page violates his First Amendment right to political expression in a public forum.

The First Amendment's prohibition on state action "abridging the freedom of speech" has long been held to forbid government conduct that stifles speech in open zones commonly used for public discourse.¹ This prohibition's sweep extends beyond physical public spaces, applying equally to speech on social media. Additionally, the First Amendment prohibits the government from silencing dissenting viewpoints.

In line with these principles, courts around the country have held that when a social media page operated by a government official is opened for public discussion, individuals may not be blocked from interacting with these pages.² By posting about policy issues and inviting public comment on the issues, a page becomes a public forum protected by the letter and spirit of the First Amendment. Once such a page has been opened for public discussion, it does not matter whether this page is formally labeled a "personal" or "public" page.

There is no question your Facebook page has been opened for public discussion. You regularly post policy positions, allow comments on these positions, and comment on these discussions through both your public and personal pages. Facebook has marked the page as belonging to a politician. Because your page has been opened for public discussion, blocking individuals access to this page based on their expressed views violates the First Amendment.

Due to your page's nature as a public page, you owe a constitutional duty to not discriminate based on dissenting viewpoints. However, you blocked Mr. Fox solely because he expressed an opinion you disagreed with. As you recently posted on this same Facebook page, "we need to quit being so easily offended and start being secure enough in our beliefs that the opposition isn't taken as an insult." Mr. Fox did nothing more than attempt to start a dialogue, and the free

¹ U.S. CONST. amend I; *Hague v. CIO*, 307 U.S. 496 (1939).

² *Knight First Amendment Inst. at Columbia Univ. v. Trump*, 928 F.3d 226 (2nd Cir. 2019); *Campbell v. Reisch*, 986 F.3d 822 (8th Cir. 2021); *Davison v. Randall*, 912 F.3d 666 (4th Cir. 2019).

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exchange of political ideas is crucial to a functioning democracy. However, blocking him from a public forum because of his views denied him this opportunity.

Mr. Fox requests that you unblock all individuals, including himself, currently blocked from your public Facebook page, along with a formal post on the page with an apology addressed to Mr. Fox and the others blocked from the page.

The First Amendment is the cornerstone of our government, allowing public political discussions on social media is an issue irrespective of political party.³ As you recently acknowledged through your public account, "each of us as Americans should show a commitment to fighting for freedom of conscience." In accordance with that sentiment, we respectfully ask you honor Mr. Fox's requests and look forward to communicating with you further regarding this matter.

Sincerely,

Jacob Goodman
Brian Ruben
Caleb Sansoucy
Third-year Student Attorneys

Gautam Hans
Director of Stanton First Amendment Clinic

³ See Michael Gold, *Ocasio-Cortez Apologizes for Blocking Critic on Twitter*, N.Y. TIMES (Nov. 4, 2019), <https://www.nytimes.com/2019/11/04/nyregion/alexandria-ocasio-cortez-twitter-dov-hikind.html>; *Knight Institute Asks Mayor Lightfoot to Stop Blocking Critics from Her Official Facebook Page*, KNIGHT FIRST AMENDMENT INST. AT COLUMBIA UNIV. (Dec. 4, 2020), <https://knightcolumbia.org/content/knight-institute-asks-mayor-lightfoot-to-stop-blocking-critics-from-her-official-facebook-page>

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